Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. H.B. 62 of the 129th G.A. **Date**: May 24, 2012

Status: As Reported by Senate Judiciary **Sponsor**: Rep. Gonzales

Local Impact Statement Procedure Required: No

Contents: Increases the penalty for assaulting specified hospital and justice system personnel

State Fiscal Highlights

STATE FUND	FY 2013 – FUTURE YEARS
General Revenue Fund (GRF)	
Revenues	- 0 -
Expenditures	Potential minimal annual increase in incarceration costs
Indigent Defense Support Fund (Fund 5DY0)	
Revenues	Potential negligible annual gain in locally collected state court costs
Expenditures	- 0 -
Victims of Crime/Reparations Fund (Fund 4020)	
Revenues	Potential negligible annual gain in locally collected state court costs
Expenditures	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2013 is July 1, 2012 – June 30, 2013.

- **Incarceration expenditures**. As a result of the bill's penalty enhancement, additional offenders/juveniles could be sentenced to a state prison/juvenile correctional facility for a felony assault offense, with any resulting increase in annual state incarceration costs likely to be no more than minimal.
- **Court cost revenues.** There may be a negligible annual increase in locally collected state court costs credited to the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020), as a relatively small number of additional offenders/juveniles may be found to have committed a felony, rather than a misdemeanor, assault offense. The state court costs generally imposed on an offender are higher in the case of a felony ($60) than in the case of a misdemeanor ($29).

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2011 – FUTURE YEARS
Counties	
Revenues	Potential gain in court costs and fines
Expenditures	Potential increase in criminal and/or juvenile justice system operating costs
Municipalities	
Revenues	Factors potentially gaining and losing money, with net effect uncertain
Expenditures	Potential decrease in criminal justice system operating costs

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- **Local expenditures generally.** The bill will: (1) shift, in all likelihood, a certain number of what would have been misdemeanor assault cases from a municipal court or a county court to a felony assault case under the jurisdiction of a court of common pleas, and (2) raise the possibility of more serious sanctions being imposed. As a result of the former effect, municipalities may realize some savings in their annual criminal justice system expenditures related to investigating, adjudicating, prosecuting, defending (if indigent), and sanctioning offenders. Conversely, counties may experience an increase in their annual criminal and juvenile justice system expenditures, as felonies are typically more time consuming and expensive to resolve and the local sanctioning costs can be higher as well.
- **Local court cost and fine revenues generally.** The penalty changes could have two distinct effects on local revenue collections. First, the felony penalty enhancement may cause municipalities to lose court cost and fine revenue that might otherwise have been collected while counties may gain court cost and fine revenue from cases that might otherwise not have been under their subject matter jurisdiction. The amount of revenue that could be lost by municipalities or gained by counties will be minimal at most annually. Second, the raising of the maximum fine for a first time offender may generate additional money for counties and municipalities. The net of these two potential revenue effects on municipalities is uncertain.

Detailed Fiscal Analysis

Overview

The bill, with respect to specified victims: (1) enhances the offense of assault from a first degree misdemeanor to a fifth degree felony, and (2) increases, from $1,000 to $5,000, the maximum possible fine that could be imposed on a first time offender. The bill's specified victims include a judge, magistrate, prosecutor, court official or employee, hospital health care professional, health care worker, or security officer of a hospital who the offender knows or has reasonable cause to know that the person is engaged in the performance of the victim's duties under certain conditions. The table below compares the bill's sentences and fines to those under current law for the offense of assault (ORC 2903.13), with any differences between the two noted in "The Bill" column as italicized text.

Sentences and Fines for Assault Against the Bill's Specified Victims		
Offender's Criminal History	**Sentences and Fines**	
	Current Law	**The Bill**
First assault conviction or guilty plea	First degree misdemeanor Fine of up to $1,000 Not more than 6-month jail stay	No change *Fine of up to $5,000* No change
Certain prior assault or homicide convictions or guilty pleas	First degree misdemeanor Fine of up to $1,000 Not more than 6-month jail stay	*Fifth degree felony* *Fine of up to $2,500* *6, 7, 8, 9, 10, 11, or 12-month prison term*

State expenditures

As a result of the bill's penalty enhancement: (1) additional adult offenders could be sentenced to prison, which would increase the Department of Rehabilitation and Correction's (DRC) annual incarceration costs, and (2) additional juvenile offenders could be committed to the state, increasing the Department of Youth Services' (DYS) annual care and custody costs. Any resulting increase in DRC's incarceration costs or DYS's care and custody costs will likely be no more than minimal annually.

Local expenditures

The bill could generate a minimal savings for certain municipal criminal justice systems and a related expenditure increase in county criminal and juvenile justice operating costs, as cases shift systems and potential sanctions elevate. The number of cases that could be affected in this manner in any given local jurisdiction is likely to be relatively small in the context of the total criminal case workload.

The bill's penalty enhancement will affect local expenditures on certain criminal and juvenile cases in two ways. First, certain criminal cases that would have been handled by a municipal court or a county court as misdemeanors under existing law will shift to a court of common pleas where they will be handled as felonies and

offenders could be subjected to more serious sanctions. As a result, municipalities may realize some savings in their annual criminal justice system expenditures related to investigating, adjudicating, prosecuting, defending (if indigent), and sanctioning offenders. Conversely, counties could experience an increase in their annual criminal justice system expenditures, as felonies are typically more time consuming and expensive to resolve and the local sanctioning costs can be higher as well. Second, offenders who are young enough to be processed through the juvenile courts would also face the possibility of more serious penalties and sentencing. As a result, the annual costs to county juvenile justice systems to resolve these cases and appropriately sanction the offending juveniles may rise.

State and local revenues

The bill could affect local revenue collections in two ways. First, the felony penalty for repeat offenders could create a potential loss of court cost and fine revenue for municipalities while increasing court cost and fine revenue for counties. The amount of court cost and fine revenue shifting in this manner is likely to be minimal annually. Second, the bill increases the maximum possible fine for a first time offender from $1,000 to $5,000. The resulting revenue gain for counties and municipalities is uncertain, due in part to the problem of collecting fines and court costs from offenders that may be unwilling, or indigent and unable, to pay.

The bill's penalty enhancement for a second assault offense may lead to a negligible annual gain for the state in the amount of locally collected court cost revenue that would be divided between the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020). This is because the total amount of state court costs imposed on an offender/juvenile and deposited to the credit of Fund 5DY0 and Fund 4020 is higher for a felony ($60) than it is for a misdemeanor ($29).

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